

<i>Document Type:</i>	Briefing Note
<i>Name:</i>	Labour Mobility as of August 2009
<i>Reference #:</i>	BN_CMO082009
<i>Date:</i>	August 2009
<i>Attachments:</i>	none

Labour Mobility as of August 2009 **(applicants from other Canadian jurisdictions where midwifery is regulated)**

The Agreement on Internal Trade ("AIT") was signed by the government of Canada and the provincial and territorial governments in 1994. It is a written agreement intended to make it easier for people, investments and services to move across Canada. Chapter 7 of the AIT, the Labour Mobility Chapter, says that a qualified worker in one province must be granted access to similar employment opportunities in another Canadian jurisdiction. Changes to the AIT were approved in January 2009, to take effect as of August 1, 2009. Those changes require all Canadian jurisdictions to accept workers in regulated professions from other Canadian jurisdictions without additional material training requirements. There are some exceptions to that general rule, discussed below, but essentially if a midwife in good standing from a province where midwifery is regulated is applying to become a midwife in Ontario, the AIT provides that the midwife must be accepted in Ontario.

However, changes to legislation must still be made in order for the law in Ontario to "catch up" to the changes made in the AIT. The Ontario Labour Mobility Act, 2009 ("OLMA") has had first reading but is not yet law and likely will not be law until early in 2010. Until the OLMA becomes law, the existing legislation applicable to the registration of midwives in Ontario is still the law that must be followed. For example, the registration regulation of the College of Midwives of Ontario has certain provisions dealing with education and experience which are "non-exemptible". That means that such requirements cannot be exempted, or waived, regardless of what the AIT provides. If those midwives from other provinces do not meet the "non-exemptible" requirements in the Ontario registration regulation, the College of Midwives of Ontario will not be able to register those midwives, regardless of what the AIT says. To do otherwise would be breaching the law of Ontario. This is where there is a gap in what the existing legislation says and what the AIT says. While the College is moving quickly to amend its registration regulation to coincide with the AIT and the proposed OLMA, much of that work is outside of the control of the College and is instead within the power of the Ontario government, which will have to amend the registration regulations of a very large number of regulated professions.

Even when the OLMA becomes law there will still be some exceptions to unfettered labour mobility, which include but are not limited to: the right of the Ontario regulator to require professional liability insurance of the applicant; the right to require a fee upon application and registration; the right to require a midwife to complete a local jurisprudence course; the right to require additional material training if the midwife has not practiced the profession within a specified period of time; the right to refuse registration to a midwife who is not of good standing or where there is evidence of bad character; the right to refuse registration where the midwife is a member of a class of midwives in her home province and there is no

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corresponding class in Ontario; or the right to refuse registration where the midwife has terms, conditions and limitations that are not generally used in Ontario.

If an applicant for registration in Ontario is refused registration because she does not meet one of the non-exemptible registration requirements, that applicant is entitled to contact the official labour mobility contact in their home province for assistance.

While it is limited by the current legislation, the College of Midwives of Ontario will work closely with midwives who are registered in other provinces and who wish to become registered in Ontario so as to comply to the fullest extent possible with the spirit of full labour mobility envisioned in the AIT.